

NIH POLICY MANUAL

54519 SCIENTIFIC, BUDGETARY, AND COMMITMENT OVERLAP

Issuing Office: OER/OPERA/GPO 301-435-0949

Release Date: 02/15/00

1. **Explanation of Material Transmitted:** This chapter contains the policy and procedures for identification and resolution of scientific, budgetary, and commitment overlap on National Institutes of Health grant and cooperative agreement applications and awards.
2. **Filing Instructions:**

 Remove: None

 Insert: NIH Manual 4519 dated 02/15/00.
3. **Distribution:** NIH Manual Mailing Keys F-401 and F-406 (transmittal sheet only): Chapter text is available on-line. See last bullet on this page for on-line information.

PLEASE NOTE: For information on:

Content of this chapter,

- **Content of this chapter,** contact the issuing office listed above.
- **NIH Manual System,** contact the Division of Management Support, OMA, OA, on 496-2832
- **On-line information, use:** <http://www3.od.nih.gov/oma/manualchapters>

SCIENTIFIC, BUDGETARY, AND COMMITMENT OVERLAP

TABLE OF CONTENTS

- A. PURPOSE
- B. BACKGROUND
- C. REFERENCES
- D. DEFINITIONS
- E. POLICY
- F. PROCEDURES
 - 1. APPLICATION REVIEW
 - 2. PRE-AWARD STAGE
 - 3. POST-AWARD STAGE
- G. RECORDS RETENTION AND DISPOSAL
- H. ACCOUNTABILITY AND MANAGEMENT CONTROLS

SCIENTIFIC, BUDGETARY, AND COMMITMENT OVERLAP

- A. **PURPOSE:** This chapter outlines the responsibilities and operating procedures for review, program, and grants management staff in dealing with actual or potential scientific, budgetary, and/or commitment overlap on NIH grant applications and awards. This chapter is applicable to all NIH grant and cooperative agreement (hereinafter referred to as grant) applications and awards.
- B. **BACKGROUND:** Identification and resolution of overlap by NIH staff is a significant responsibility. Proper resolution of specific overlap cases inspires confidence among peer reviewers and grant applicants that the grant system is fair and equitable and that funds are appropriately awarded to the research community and judiciously administered by NIH.

Overlap of support (scientific, budgetary, and/or commitment of an individual's effort that exceeds 100 percent) is not permitted. Applicants for NIH grants are required to complete the Application for a Public Health Service (PHS) Grant (PHS 398) or the Application for Continuation of a PHS Grant (PHS 2590). These application kits provide some information on this subject and includes an "Other Support" page, which requires applicants to identify all financial resources (Federal or non-Federal) that are available to the principal investigator (PI) or program director (PD) and other key personnel, in direct support of their research endeavors.

The members of a scientific review group (SRG), the scientific review administrator (SRA), the program administrator, and/or the grants management specialist may identify overlap in the review of the Other Support page. Further, the identification of overlap may result from the personal knowledge of any of the participants named above regarding activities not reported on the Other Support page.

Questions of overlap should be resolved only in post-Council/pre-award negotiation through the combined efforts of program and grants management staff. In addition, questions of overlap should be resolved with appropriate interactions with applicant organizational officials, including the PI. A SRG critique and budget

SCIENTIFIC, BUDGETARY, AND COMMITMENT OVERLAP

recommendation should not be based on overlap or the perception of overlap. Overlap, or potential overlap, is to be addressed only by an Administrative Note in the Summary Statement.

C. REFERENCES:

1. Code of Federal Regulations, Title 42, Part 52, Grants for Research Projects
2. NIH Grants Policy Statement, NIH Publication No. 99-8 October 1998 available at <http://odoerdb2.od.nih.gov/oer/policies/policies.htm#documents>
3. PHS Grants Administration Manual, Part 104, "Required Documentation under PHS Grant Programs"
4. PHS Grants Administration Manual, Part 105, "Monitoring the Performance of Discretionary Grants"
5. Application for a Public Health Service Grant (PHS 398) and Application for Continuation of a Public Health Service Grant (PHS 2590)
6. NIH Manual 1743, "Keeping and Destroying Records"
7. NIH Manual 4205, "Role of the Principal Investigator on Research Projects Supported by NIH"
8. NIH Manual 4512, "Summary Statements"
9. NIH Manual 4514, "Role of Staff at Peer Review Advisory Committee Meetings and Exchange of Information Among Review, Program, and Grants Management Staff"
10. NIH Manual 4518, "Peer Review Appeals "
11. NIH Manual 4811, "Notification and Treatment of Released Funds Resulting from Issuance of a Research or Academic Career Award"
12. NIH Manual 5808, "Establishment and Documentation of Files and Other Records, Including Monitoring Actions, for NIH Grant Programs"

SCIENTIFIC, BUDGETARY, AND COMMITMENT OVERLAP

13. Handbook for Scientific Review Administrators, prepared by the Center for Scientific Review, NIH.

D. DEFINITIONS:

1. **Appointment** - An assignment at the applicant organization that formalizes an official relationship between the applicant organization and an individual. Such a relationship might not necessarily represent an "employment" relationship (e.g., it may not necessarily involve salary or other remuneration). In all cases, however, the PI's official organizational relationship must provide sufficient opportunity and resources for the PI to carry out his/her responsibilities for the overall scientific and technical direction of the project. (See NIH Manual Chapter 4205.)
2. **Key Personnel** - Individuals who contribute in a substantive way to the scientific development or execution of the project, whether or not salary is requested or received from the project.
3. **Other Support** - All financial resources available in direct support of an individual's research endeavors. These funds may be Federal or non-Federal (including commercial or institutional monies). Federal funds may include, but are not limited to research grants, cooperative agreements, or contracts. Training awards, prizes, income from royalties¹ or gifts are not considered financial resources for the purpose of this issuance.
4. **Overlap** - There are three distinct types of overlap.
 - a. **Scientific overlap** occurs when substantially the same research is proposed in more than one application; or is submitted to two or more different funding sources for review and funding consideration; or a specific research objective

¹ Potential income to be derived from specific project would be included in that project's section on program income.

SCIENTIFIC, BUDGETARY, AND COMMITMENT OVERLAP

and the experimental design for accomplishing that objective are the same or closely related in two or more pending applications or awards, regardless of the funding source.

- b. **Budgetary overlap** occurs when duplicate or equivalent budgetary items (e.g., equipment, salary) are requested in an application but are already funded or provided by another source.
 - c. **Commitment overlap** occurs when any project-supported personnel (including support staff and key personnel) has time commitments (percent effort) exceeding 100 percent, regardless of how the effort/salary is being supported or funded.
5. **Principal Investigator (PI)/Program Director (PD)** - An individual designated by the recipient to direct the project or program being supported by the grant. This individual is responsible and accountable to the recipient organization officials for the proper conduct of the project or program.
6. **Total Effort** - For the purposes of this issuance, total professional effort is considered to be 100 percent of an individual's obligation whether one or more organizations are involved. This applies to all personnel on a project, that is, key personnel as well as support staff.

An individual with only a single full-time appointment at one institution would be considered to have a commitment to the applicant organization of 100 percent of his/her total professional effort.

*² A person with a half-time appointment with one

² There are two exceptions to this, explained fully in NIH Manual Chapter 4205 Section F.2.e.: if an investigator has a Department of Veterans Affairs (VA) appointment jointly with a full-time university appointment, the two obligations combined constitute total professional effort. If an individual has appointments with more than one organization, and the appointments are dependent upon each other (i.e., the two organizations are mutually responsible for the individual's total professional effort), the joint appointment is

SCIENTIFIC, BUDGETARY, AND COMMITMENT OVERLAP

organization and no other concurrent appointments would be considered to have 100 percent of his/her total professional effort devoted to that organization, even though it is just a 50 percent commitment.

If an individual has concurrent independent commitments or appointments with more than one organization, his/her commitment to the applicant organization would be less than 100 percent, with all commitments totaling 100 percent. An example may include a PI/PD that has an affiliation and appointment with a university and a small company. Another example may include commitments to a university, a hospital, and a non-profit or for-profit organization. In some cases, there may be an affiliation between the university and hospital, or there may be no affiliation. In each case, the terms of employment must be defined.

An appointment may be devoted exclusively to or divided among teaching; organized research (i.e., research activities at an organization that are separately budgeted and accounted for); clinical responsibilities; indirect activities, such as research administration or departmental administration; and other organizational duties. The concept of total effort includes those ancillary activities such as training and attendance at professional seminars that enhance the ability of the individual to fulfill his/her obligations to the organization. Where there is concern about potential overlap of commitment by an individual, information may be requested as to the distribution of the total effort commitment between research and non-research activities. It does not include activities that are unrelated to the fulfillment of the employee's obligation to the organization(s) (e.g., private consulting, private practice).

- a. **Maximum Effort** - An individual's maximum commitment of effort to a combination of grants

considered to represent the individual's total professional effort.

SCIENTIFIC, BUDGETARY, AND COMMITMENT OVERLAP

and all other commitments (at the applicant organization or a combination of organizations) is 100 percent. The ability to devote 100 percent effort to research is limited by the extent of other required institutional responsibilities such as teaching, administrative duties, and clinical activities.

For instance, it would be unusual for an investigator working at an academic or clinical organization to be able to devote 100 percent effort to research, given the concomitant obligations of such a position.

- b. **Minimum Effort** - The principal investigator is the guiding force behind the hypothesis, development, and execution of the funded research activity, and is responsible for the supervision of scientific and support staff. A minimum level of effort may be recommended by the SRG, determined by the I/C, or stated in specific program guidelines. If a minimum level of effort is required, it should be specifically stated as a term of award.

- E. **POLICY:** Overlap of support (scientific or budgetary) or over commitment of an individual's effort is unallowable. Management of overlap is a critical responsibility of NIH staff as it relates to their role as stewards of public funds. The goals in identifying and eliminating overlap are to ensure that sufficient and appropriate levels of effort are committed to the project and that there is no duplication of funding for scientific aims, specific budgetary items, or an individual's level of effort.

- F. **PROCEDURES:** The following procedures are organized chronologically, beginning with initial review of the application and continuing through the post-award stage.

- 1. **Application Review:**

It is **not** the responsibility of the SRG to resolve overlap issues via adjustments to the budget, duration of support, or in the priority score itself. Thus, it is the responsibility of SRAs to

SCIENTIFIC, BUDGETARY, AND COMMITMENT OVERLAP

properly advise SRG members of their role and responsibility in identifying actual or potential overlap. SRAs must advise SRGs that resolution of overlap is an administrative responsibility for program and grants management staff and that any concerns regarding overlap must be confined to Administrative Notes in the Summary Statement.

- a. Prior to the SRG meeting, the SRA should review the "Other Support" information in the grant application. If the information does not adhere to the competing grant application guidelines, or if it suggests or identifies potential overlap, the SRA should contact the PI in advance of the review meeting to request clarification.
- b. In the case of large multi-project applications and/or other complex reviews, program staff, grants management staff, and review staff may confer prior to the SRG meeting. Therefore, in addition to other administrative and budgetary matters, overlap issues should be identified and, whenever possible, resolved prior to the SRG meeting. If overlap with another application(s) is identified, staff may query the extramural information system, Information for Management, Planning, Analysis, and Coordination (IMPAC), to obtain the funding status of other active or pending NIH and certain PHS applications. When further clarification is necessary, additional information should be obtained by the SRA from the PI or staff of the other Institute/Center (I/C) or funding agency prior to the review meeting.
- c. If an issue of overlap was not raised specifically by the SRG members but is identified by the SRA, she/he may still include an Administrative Note regarding the overlap in order to bring it to the attention of program and grants management staff.

SCIENTIFIC, BUDGETARY, AND COMMITMENT OVERLAP

- d. In the modular grant format, Other Support information is provided only on a Just-In-Time basis. The paragraphs, as referenced above, would not apply.

2. Pre-award Stage (prior to competitive award):

It is the responsibility of program and grants management staff to routinely review, for issues of overlap, those grant applications that fall within the funding range. As part of this process, scientific aims and the budget are reviewed and total committed effort for each investigator is tallied. If potential overlap is identified in scientific aims, specific budgetary items, or total committed effort, it will be necessary to review overlap further as described below. Depending upon the outcome of the additional review for overlap, adjustments to the research plan, budget, or commitment of personnel may be necessary. In some unusual instances, the award may be delayed or not issued.

- a. **Scientific Overlap** (see definition in Section D4a.above: If the research plan in the pending application is completely duplicative of either other pending applications or an active award, the PI must negotiate with NIH staff concerning which grant will be funded. If there is partial duplication, it will be necessary to modify the pending application, other applications, or the active award prior to NIH's funding the pending application. If the withdrawal/termination is not effected prior to issuing the pending award, a special term on the award would be appropriate. Depending upon the amount of scientific overlap, staff might choose not to fund the pending application.

SCIENTIFIC, BUDGETARY, AND COMMITMENT OVERLAP

If scientific overlap is associated with budgetary overlap, budgetary negotiations by grants management staff may be in order (see below). The PI must be given the opportunity to discuss the issues with staff and participate in the discussion regarding how to resolve the scientific overlap, although the final decision rests with NIH staff. Staff will ensure that eliminating a specific research objective does not compromise the scientific merit of the pending proposal. If so, staff should consider not funding the application or request that it be re-reviewed. It may be necessary for the PI/PD to submit revised aims documenting the new approved scope of the project.

- b. **Budgetary overlap** (see definition in Section D4b. above): The deletion of budgetary overlap may be accomplished by grants management staff, in collaboration with program staff (and other funding components or agencies as necessary) through discussions with the PI/PD and/or with the authorized business official of the applicant organization. Typically the pending grant will be modified when budgetary overlap occurs with a funded award.
- c. **Commitment Overlap** (see definition in Section D4c. above): Commitment overlap may be resolved by decreasing committed effort on one or more projects/activities in order to reduce the total to the maximum of 100 percent. A decision to decrease effort of the PI significantly on a funded research project (a 25 percent or more reduction of funded effort) may constitute a change of scope and thus would require prior approval from the awarding component or agency. In some cases, reduced effort on a project(s) could compromise the proposed or funded research. (For example, a decrease from 40 percent to 30 percent effort is a change of 25 percent, even though it is only a reduction of 10 percentage points.)

SCIENTIFIC, BUDGETARY, AND COMMITMENT OVERLAP

When negotiating reductions in committed effort, it is important to consider institutional commitments, if any, and the possibility that other minimum levels of effort may apply to specific NIH or I/C programs or mechanisms.

Grants management staff will discuss the issue with the PI/PD and negotiate where the reduction will occur. This negotiation will be conducted following consultation with program staff from the I/C and other affected awarding components. Adjustments to effort must consider the level of effort necessary for the conduct of the research and the level of effort devoted to non-research commitments, e.g., teaching, clinical, administrative. This is always true for PI/PD and true only for individuals identified on the award notice. If approved/funded effort of other key personnel is critical for the project, there should be a special term of award, as follows: "Significant change in effort requires the approval of the awarding component." Furthermore, when effort is reduced to adjust for commitment of overlap, the award notice should be footnoted to document the approved level of effort for the PI/PD and any key personnel. Awards may be revised and funds reduced or restricted depending upon resolution of overlap issues.

- d. **Requesting Other Support Information:** As part of the usual review of an application, I/C staff may request updated Other Support information (active and/or pending) at the time of award. Updated information may be requested if there appears to be a substantial amount of pending support, or a significant amount of time has lapsed since the application was submitted, or if potential overlap has been identified during review. The purpose of requesting an update to Other Support is to identify and eliminate overlap and to ensure that sufficient and appropriate levels of effort are available to commit to the pending project. The I/C staff should contact the applicant's Office of

SCIENTIFIC, BUDGETARY, AND COMMITMENT OVERLAP

Sponsored Research, or a similar business office, to obtain updated information on active and pending support. This information should be provided in a similar format as shown in the competing application kit.

e. **Resolution of Overlap**

- (1) When overlap is identified and there is a question regarding the currency or accuracy of other support information, including non-research organizational commitments, grants management staff may request updated information concerning other support from the business official of the applicant organization. It may be necessary for the applicant organization to provide information or a detailed description regarding other responsibilities or commitments and projects, or provide copies of other applications or awards.
- (2) Coordination of overlap between NIH I/Cs and/or other agencies or funding components is an important aspect of resolving overlap. When resolving any question of overlap, program and grants management staff should coordinate their efforts and work as a team in collecting information and arriving at a decision. Based on additional information received from the PI/PD, program and grants management staff will determine the appropriate action and decide whether budgetary adjustments are needed. In order to make these determinations, staff must consult, as necessary, with other components within NIH, other Government agencies, or private organizations to resolve questions of overlap.
- (3) When adjusting for overlap, the customary practice is to modify the pending application, rather than adjust the funded grant(s). However, it may be necessary to reduce or modify a funded grant. For

SCIENTIFIC, BUDGETARY, AND COMMITMENT OVERLAP

example, the PI/PD may wish to modify one or more other active grants in order to comply with effort requirements associated with the to-be-awarded grant. In such instances the other affected NIH awarding component(s) must be notified and provide any necessary approvals in writing. Significant changes in budget or effort require the approval of the awarding component(s) or agency(ies). Awards may be revised and funds reduced or restricted depending upon resolution of the overlap issues. As always, the official grant file must be documented.

- (4) Any budgetary or other changes due to resolution of overlap will be reflected on the Notice of Grant Award and/or in the Terms and Conditions of Award.
- (5) In some cases (e.g., where significant adjustments are involved), the business or organizational official should be requested to submit a letter, countersigned by the PI/PD, for the official grant file acknowledging the terms of the overlap resolution. If more than one NIH I/C or funding agency is involved, the grantee should be directed to submit this letter to all involved parties. It may also be necessary to submit a revised budget.
- (6) According to NIH policy (see NIH Manual Chapter 4811), funds budgeted in an NIH-supported research grant for an individual's salary, applicable fringe benefits, and associated Facilities & Administrative (F&A) costs, but freed as a result of funding a research or academic career development award for that individual, may not be used for any other purpose. An exception exists when the career award recipient no longer participates in the career award grant-supported activity and another individual

SCIENTIFIC, BUDGETARY, AND COMMITMENT OVERLAP

replaces him/her and requires comparable remuneration. This action requires prior written approval of the awarding component.

3. Post-award Stage (changes during noncompetitive segment):

The PI is required to report any substantial changes in other support or other overlap issues in the non-competing application. If overlap is identified at the time of the submission and review of the noncompeting continuation application, whether due to changes in the Other Support or from another source, the same procedures as detailed above will be followed.

G. RECORDS RETENTION AND DISPOSAL

All records (e-mail and non-e-mail) pertaining to this chapter must be retained and disposed of under the authority of NIH Manual 1743, "Keeping and Destroying Records," Appendix 1, 'NIH Records Control Schedule,' Item 4000 covers NIH grants and awards and item 1100-G covers Advisory Councils and Committee Management. Refer to the NIH Chapter for specific instructions.

NIH e-mail messages. NIH e-mail messages (messages, including attachments, that are created on NIH computer systems or transmitted over NIH networks) that are evidence of the activities of the agency or have informational value are considered Federal records. These records must be maintained in accordance with current NIH Records Management guidelines. If necessary, back-up file capability should be created for this purpose. Contact your IC Records Officer for additional information.

All e-mail messages are considered Government property, and, if requested for a legitimate Government purpose, must be provided to the requestor. Employees' supervisors, NIH staff conducting official reviews or investigations, and the Office of Inspector General may request access to or copies of the e-mail messages. E-mail messages must also be provided to members of Congress or Congressional oversight committees if requested and are subject to Freedom of Information Act

SCIENTIFIC, BUDGETARY, AND COMMITMENT OVERLAP

requests. Since most e-mail systems have back-up files that are retained for significant periods of time, e-mail messages and attachments are likely to be retrievable from a back-up file after they have been deleted from an individual's computer. The back-up files are subject to the same requests as the original messages.

H. ACCOUNTABILITY AND MANAGEMENT CONTROLS

The purpose of this manual issuance is to state the basic requirements for addressing scientific, budgetary, and commitment overlap associated with assistance awards from the NIH. Responsibility for accountability and management controls for this chapter reside with the Division of Grants Policy (DGP), Office of Policy for Extramural Research Administration (OPERA), Office of Extramural Research (OER). The frequency of review will occur on an as needed basis or on an ad hoc basis. The Method of Review will be Other Review.

DGP, working with the NIH Grants Management Advisory Committee (GMAC), is developing a NIH internal grants management compliance model (GMCM). Part of the GMCM will contain a file review component to ensure that I/C grant files are properly maintained and processed with regard to scientific, budgetary, and commitment overlap issues. Reports of findings and recommendations resulting from GMCM reviews or other similar types of reviews will be issued to I/Cs for appropriate action. Common issues will be brought to the GMAC for resolution and corrective action. Depending upon the nature and the extent of problems found if any, the Director OPERA may recommend additional policy guidance or training for grants management staff.

Review Reports are sent to: DDER and DDM